

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

04 11592 RCL

\*\*\*\*\*

GREGORY J. LAUREANNO,

Plaintiff

v.

DEATON, INC.

and

THEODORE WILLIAM BACALIS,

Defendants

\*\*\*\*\*

RECEIPT # 57373  
AMOUNT \$ 150  
C.A. NO SUMMONS ISSUED (e)  
LOCAL RULE 4.1 1  
WAIVER FORM 1  
MCF ISSUED 1  
BY DPTY. CLK. rom  
DATE 7/16/04

PLAINTIFF'S COMPLAINT AND JURY TRIAL DEMAND

Introduction

MAGISTRATE JUDGE Cohen

1. This is a personal injury action arising out of a motor vehicle accident on August 31, 2001 on Pleasant Street in Fall River, Massachusetts. The Plaintiff is Gregory J. Laureanno of Somerset, Bristol County, Massachusetts. Plaintiff was the operator of a stopped motor vehicle that was struck by a delivery truck backing up in an attempt to make a turn at an intersection. The delivery truck was owned by and registered to the Defendant, Deaton, Inc., an Alabama corporation, and negligently operated in the course of his employment by its employee, the Defendant, Theodore William Bacalis, of Portsmouth, Virginia.

Parties

2. The Plaintiff, Gregory J. Laureanno, is an individual who resides in Somerset, Bristol County, Massachusetts.

3. The Defendant is Deaton, Inc. (hereinafter, "Deaton") a foreign corporation incorporated in the State of Alabama. At all times relevant to this Complaint, Deaton transacted business within the Commonwealth of Massachusetts, and through its employee, committed tortuous conduct within the Commonwealth of Massachusetts including Bristol County. At all relevant times Deaton is the employer of the Co-Defendant, Theodore William Bacalis.
4. The Defendant is Theodore William Bacalis (hereinafter, "Bacalis") of 3203 Westwood Crescent, Portsmouth, Virginia, an individual, who at all relevant times was employed by the Co-Defendant Deaton as a truck driver operating Co-Defendant Deaton's truck.

Jurisdiction

5. This Court has jurisdiction pursuant to 28 USC 1332(a)(1) based upon diversity of citizenship. The matter in controversy exceeds \$75,000, exclusive of interest and costs.
6. At all relevant times, the Defendants are subject to the personal jurisdiction of this Court by conducting business in the Commonwealth of Massachusetts, operating a motor vehicle within the Commonwealth of Massachusetts, and committing tortuous conduct within the Commonwealth of Massachusetts.

Facts

7. On or about August 31, 2001, the Plaintiff was the operator of a motor vehicle that was stopped in traffic on Pleasant Street in Fall River, Massachusetts.
8. At the same time, the Defendant Bacalis, while in the course of his employment for the Defendant Deaton, was operating a truck, owned by and registered to Defendant Deaton, in a southerly direction on Pleasant Street in Fall River, Massachusetts.
9. The Defendant Bacalis negligently operated the aforesaid truck causing it to strike the stopped motor vehicle in which the Plaintiff was operating.
10. The negligence of the Defendant Deaton was the direct and proximate cause of the Plaintiff incurring severe injuries.

Count One - Negligence Claim of Gregory J. Laureanno Against Theodore

William Bacalis

11. The Plaintiff, Gregory J. Laureanno, repeats and incorporates by reference paragraphs 1 through 10 of his Complaint.
12. As a direct and proximate result of the negligent operation of the truck, Plaintiff, Gregory J. Laureanno, incurred physical and mental pain and suffering, past and future medical expenses, past and future lost earning capacity, and past and future diminished ability to enjoy life.

WHEREFORE, the Plaintiff, Gregory J. Laureanno, demands judgment against the Defendant Bacalis in an amount sufficient to compensate him for his damages together with costs, expenses and interest.

Count Two - Negligence Claim of Gregory J. Laureanno Against Deaton Automotive Industries, Inc.

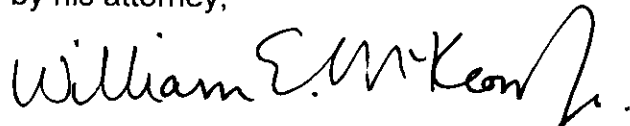
13. The Plaintiff, Gregory J. Laureanno repeats and incorporates by reference paragraphs 1 through 10 of his Complaint.
14. As registered owner of the truck involved in the motor vehicle accident, and as the employer of the Co-Defendant Bacalis, the Defendant Deaton is liable for the negligence of Co-Defendant Bacalis.
15. As a direct and proximate result of the negligent operation of the truck, Plaintiff, Gregory J. Laureanno, incurred physical and mental pain and suffering, past and future medical expenses, past and future lost earning capacity, and past and future diminished ability to enjoy life.

WHEREFORE, the Plaintiff, Gregory J. Laureanno, demands judgment against the Defendant Deaton in an amount sufficient to compensate him for his damages together with costs, expenses and interest.

**JURY TRIAL DEMAND**

The Plaintiff hereby demands and claims a trial by jury on all issues raised in his Complaint and the responsive pleadings of the Defendants.

Respectfully submitted,  
The Plaintiff,  
by his attorney,

A handwritten signature in black ink, reading "William E. McKeon, Jr." with a stylized flourish at the end.

William E. McKeon, Jr., Esq.  
B.B.O. # 336510  
Ten North Main Street  
Fall River, Massachusetts 02720  
508/677-4424

Dated: July 9, 2004

JS 44 (Rev. 3/99)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Laureanno, Gregory J.

(b) County of Residence of First Listed Plaintiff Bristol  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
William E. McKeon, Jr. 508-677-4424  
Law Office of William E. McKeon, Jr.  
10 North Main St., Fall River, MA 02720

**DEFENDANTS**

Deaton, Inc.

Bacalas, Theodore William

County of Residence of First Listed Birmingham, Alabama  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business in Another State ☐ 5 ☒ 5 DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

**VII. REQUESTED IN COMPLAINT:** ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** **CHECK YES only if demanded in complaint:**  
**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY** (See instructions): **JUDGE** **DOCKET NUMBER**

DATE July 9, 2004 SIGNATURE OF ATTORNEY OF RECORD William E. McKeon, Jr.

FOR OFFICE USE ONLY  
RECEIPT #                      AMOUNT                      APPLYING IFP                      JUDGE                      MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Gregory J. Laureanno v. Deaton, Inc.
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.   
\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.  
None
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?  
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)  
YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?  
YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?  
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).  
YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?  
Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?  
Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)  
YES ☐ NO ☐
- (PLEASE TYPE OR PRINT)
- ATTORNEY'S NAME William E. McKeon, Jr., Esquire
- ADDRESS 10 North Main Street, Fall River, Massachusetts 02720
- TELEPHONE NO. 508-677-4424 BBB 336 510